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Attorneys for each of Aristeia Capital,  
 L.L.C., Aurelius Capital Management,  
 LP, Drawbridge Special Opportunities  
 Advisors LLC, Ore Hill Hub Fund Ltd.,  
 Nisswa Master Fund Ltd., Pines Edge Value  
 Investors Ltd., Pines Edge Value Investors  
 L.P., Silver Sands Fund LLC, Stark Master  
 Fund Ltd. and 3V Capital Management, LLC

**UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK**

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In re:	:
	: Chapter 11
CALPINE CORPORATION, <u>et al.</u> ,	: Case No. 05-60200 (BRL)
	:
Debtors.	:
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ARISTEIA CAPITAL, L.L.C.,	:
AURELIUS CAPITAL MANAGEMENT, LP,	:
DRAWBRIDGE SPECIAL OPPORTUNITIES	:
ADVISORS LLC, ORE HILL HUB FUND LTD.,	:
NISSWA MASTER FUND LTD., PINES EDGE	:
VALUE INVESTORS LTD., PINES EDGE	:
VALUE INVESTORS L.P., SILVER SANDS	:
FUND LLC, STARK MASTER FUND LTD.	:
AND 3V CAPITAL MANAGEMENT, LLC,	:
	:
Appellants,	:
	:
-against-	:
	:
CALPINE CORPORATION AND ITS	:
AFFILIATED DEBTORS AND DEBTORS	:
IN POSSESSION, OFFICIAL COMMITTEE	:
OF UNSECURED CREDITORS OF	:

CALPINE CORPORATION, OFFICIAL :  
 COMMITTEE OF EQUITY SECURITY :  
 HOLDERS, :  
 :  
 Appellees. :  
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**APPELLANTS' DESIGNATION OF RECORD ON APPEAL AND STATEMENT OF ISSUES TO BE PRESENTED PURSUANT TO FED. R. BANKR. P. 8006**

Pursuant to Federal Rule of Bankruptcy Procedure 8006, Aristeia Capital, L.L.C., Aurelius Capital Management, LP, Drawbridge Special Opportunities Advisors LLC, Ore Hill Hub Fund Ltd., Nisswa Master Fund Ltd., Pines Edge Value Investors Ltd., Pines Edge Value Investors L.P., Silver Sands Fund LLC, Stark Master Fund Ltd. and 3V Capital Management, LLC (the “6% Convertible Noteholders”), as beneficial owners, or managers of entities or accounts that are beneficial owners, of the 6% Convertible Notes Due 2014 (the “6% Convertible Notes”) issued under the indenture, dated as of August 10, 2000 (the “Original Indenture”), between Calpine Corporation (together with its affiliated debtors and debtors-in-possession, “Debtors”), as issuer, and Wilmington Trust Company, as predecessor indenture trustee (together with HSBC Bank USA, National Association, as successor indenture trustee (“HSBC”), collectively, the “Indenture Trustee”), as supplemented by the Second Supplemental Indenture, dated as of September 30, 2004 (the “Supplemental Indenture,” together with the Original Indenture, the “Indenture”), respectfully submit, by and through their undersigned counsel, their designation of record on appeal and statement of issues to be presented to the United States District Court for the Southern District of New York, with respect to the Order Granting Debtors’ Limited Objection to Convertible Noteholder Claim Nos. 2404, 2821, 2823, 6247, 6249, 6280, 6299 and 6300, entered on August 10, 2007 (Docket No. 5595) (the “Order”) by the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy

Court”).<sup>1</sup>

**I. DESIGNATION OF DOCUMENTS TO  
BE INCLUDED IN RECORD ON APPEAL**

The 6% Convertible Noteholders submit the items listed in the chart attached as Exhibit A for inclusion in the record on appeal.<sup>2</sup>

**II. STATEMENT OF ISSUES ON APPEAL**

1. Whether the Bankruptcy Court erred as a matter of law when it entered the Order Granting Debtors’ Limited Objection to Convertible Noteholder Claim Nos. 2404, 2821, 2823, 6247, 6249, 6280, 6299 and 6300.

2. Whether the Bankruptcy Court erred as a matter of law in determining that the Indenture Trustee’s timely-filed proof of claim on account of the 6% Convertible Notes, which included a liquidated claim for principal and interest and a claim for “all other amounts due or to become due under the Indenture . . . , which amounts may, presently, be unliquidated or contingent, . . . including, but not limited to, . . . compensatory . . . damages” and attached a copy of the Indenture, did not include a claim for breach of the conversion right contained in the 6% Convertible Notes as provided in the Indenture (the “Conversion Right”).

3. Whether the Bankruptcy Court erred as a matter of law in determining that the supplements to the proof of claim filed by the Indenture Trustee, which merely clarified that the original proof of claim for unliquidated damages included a claim for breach of the Conversion Right, is not an amendment to the proof of claim and did not relate back to the original proof of

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<sup>1</sup> On August 14, 2007, the 6% Convertible Noteholders filed a Notice of Appeal from the Order (Docket No. 5614).

<sup>2</sup> Each of the documents designated herein to be included in the record on appeal includes all exhibits, schedules and other attachments to such documents.

claim and is therefore time barred, even though the claim relates to the same Indenture and the same transaction.

4. Whether the Bankruptcy Court erred as a matter of law in determining that allowance of the 6% Convertible Noteholders' claim for damages arising from the Debtors' abrogation of the Conversion Right contained in the Indenture should be expunged on equitable grounds.

5. Whether the Bankruptcy Court erred as a matter of law in holding that the Debtors are not liable to the 6% Convertible Noteholders for eliminating the Conversion Right in breach of the Indenture and disallowing the 6% Convertible Noteholders' claim for breach of the Conversion Right.

6. Whether the Bankruptcy Court erred as a matter of law in holding that any claims arising from the Debtors' abrogation of the Conversion Right contained in the Indenture would be subject to subordination pursuant to 11 U.S.C. § 510(b).

7. Whether the Bankruptcy Court erred by improperly adjudicating issues not before it and valuing the claims of the 6% Convertible Noteholders as the amount of outstanding principal, plus accrued interest at a rate to be determined by the Bankruptcy Court at the end of the Chapter 11 Cases and reasonable prepetition indenture trustee fees as provided under the Indenture, and ordering that the 6% Convertible Noteholders were not entitled to claims on account of any breaches of their Indenture (other than breach of the Conversion Right), and "makewhole" or other damages, which claims were neither disputed in Debtors' Limited Objection nor briefed or argued by the parties.

Dated: August 20, 2007  
New York, New York

Respectfully submitted,

MILBANK, TWEED, HADLEY & M<sup>c</sup>CLOY LLP

By: /s/ Andrew M. Leblanc  
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